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Policy Study: EU-ACP Fisheries Agreements

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Coalition for Fair Fisheries Arrangements

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0. Executive summary

1. EU-ACP fisheries agreements (FA): facts and figures

- ? Worldwide, fishing and its associated activities, provide a source of livelihood for between 200 and 250 million people. Fish resources provide the only source of food for some of the world's poorest communities: over 60 % of the world's recorded fisherfolk survive on less than €1 per day.
- ? In ACP waters, fisheries resources, increasingly over-exploited, are targeted by local fishing fleets, by Distant Water Fleets, like the EU, and by vessels fishing illegally. The EU access to ACP fish resources is governed by bilateral fisheries agreements. Nowadays, 18 bilateral fisheries agreements are signed between the EU and ACP countries.
- ? These EU-ACP fisheries agreements are "cash for access" agreements, offering fishing possibilities to EU fleets in exchange of a financial compensation. Due to the non-renewal of the EU-Morocco agreement in 2000, the budget earmarked for "cash for access" fisheries agreements fell from €278.5 million in 1996 to less than €200 million in 2003. In 2004, the total costs of fisheries agreements amounted to €72 million.
- ? The main interests of the EU in signing fisheries agreements with ACP countries include:
 - ? supplying fish as raw material to EU processing industry - 60% of the fish comes from outside EU waters;
 - ? maintaining fishing capacity outside EU waters - in the 90's, ACP-EU fisheries agreements allowed an average of 800 EU vessels to operate in developing countries waters; and
 - ? Maintaining EU employment - the ACP-EU fisheries agreements represent 35,000 jobs, mainly in EU processing.

2. Why are EU-ACP fisheries agreements considered unfair?

- ? In the 90's, EU-ACP fishing agreements generated annually, value added of average €694 million in the EU member states through processing and marketing of fish caught in ACP waters by EU vessels. This is, on average, three times more than the benefits accruing to ACP countries through the signing of fisheries agreements with the EU: Most of the benefits from the ACP-EU agreements accrue to Spanish operators, which obtain over 80% of the added value and jobs. France and Portugal benefit from approximately 7%.
- ? EU fleets fishing in ACP waters benefited from a variety of subsidies: grants for vessel construction, tax breaks (e.g. on fuel), market support, third country fisheries agreements compensation, etc. Thanks to these subsidies, EU vessels have been able to carry on fishing even when the stocks were too low to make it economically profitable. The result is unfair competition with the local fleet, especially in the artisanal sector, for resources and markets, and increased over-fishing.

3. In what ways are these fisheries agreements unfair?

A number of provisions contained in the EU-ACP fisheries agreements do not protect the long-term development of the ACP fisheries sector. Reasons for this are listed below.

A. The basis for estimating real EU fishing fleets impacts

Under-estimation of the fishing effort: there is no catches limitation stipulated in FA; access is provided through fishing possibilities calculated in GRT or number of boats, which do not provide a good estimation of the fishing effort deployed

Utilisation of destructive fishing practices, such as trawling in coastal tropical waters, or the use of FADs (fish aggregating devices) by EU tuna fleets, which generates high levels of by-catch, in particular of juvenile fish

Over-exploitation of ACP fish resources Access has been provided to already fully-exploited or over-exploited stocks, like access to coastal demersal species in Mauritania, Angola.

B. The basis for Monitoring, Control and Surveillance

Observers' programs/VMS: observers are paid directly by the vessel owner, which does not guarantee their independence, VMS data are not available in real time to the third country authorities.

Un(der) reporting catches: reports on catches and by-catches by EU fleets in ACP waters are unsatisfactory, in some cases almost absent

C. The basis for maximising benefits for the local fisheries industry

Local landings: the vessel owner can escape to its obligation to land catches locally if he pays a small fee (20 euros per GRT in some cases)

Employment of local crew the obligation to embark a certain number of local crew is not respected in many cases, like Seychelles or Madagascar

D. The basis for accountability

An audit from the European Court of auditors found that several aspects of the EU -ACP fisheries agreements do not enable the Commission to ensure proper monitoring of the implementation of the agreements nor to evaluate their benefit.

These negative impacts reflect a lack of coherence between EU-ACP fisheries agreements and the Objectives of EU-ACP Development Cooperation, spelled out in the Cotonou agreement: sustainable development and poverty reduction.

To address this lack of coherence, the EU has taken some significant steps in recent years to embrace sustainable development objectives in the signing of ACP-EU fisheries agreements, namely, in 2003 through the Council's conclusions on an Integrated Framework for Fisheries Partnership Agreements (FPAs) with Third Countries.

4. Will Fisheries Partnership Agreements (FPAs) be fairer?

FPAs are part of the reformed Common Fisheries Policy's strategy for European distant water fisheries, which includes also the following elements:

- an action Plan to eradicate illegal, unreported, unregulated fisheries (IUU); and
- an Action Plan to improve stock assessment outside Community waters.

The main changes proposed compared to EU-ACP fisheries access agreements include:

A. Better resource conservation with priority to local ACP fleets

FPAs should aim to prevent over-fishing, 'in particular for stocks of importance to local people'. To be noted, the European Parliament went a step further in its resolution on FPAs, stressing that 'no agreement should be sought in relation to access to stocks that are already fully exploited or in danger of overexploitation'.

B. Compatibility with WTO

Fisheries Partnership Agreements are intended to be WTO-compatible in that financial contributions under CFP are justified by the mutual interest of two parties to invest in sustainable fisheries policy and not just as a payment for access rights. To be fully WTO-compatible, however, such investments must be fully uncoupled from access, with access costs being payable in full by vessel owners. This is not, yet, the case.

C. Subsidies for vessel transfers to continue

The difference being that the EU operators will ultimately receive the funding from the third country rather than from the EU.

D. Regional action is stressed

The importance of acting at a regional level for research, monitoring and control is also stressed in the Council's conclusions.

E. Ex-ante / Ex-post Impact assessment study

As of January 1st 2003, the EU is legally obliged to assess the impacts on sustainable development through undertaking impact assessment studies (IAS) of all its policies, including ACP, including FPAs.

The domains examined include:

- ? the current fisheries situation in the coastal state
- ? analysis of the FPA: economic and financial analysis (such as stakeholder identification, cost-benefit and cost-effectiveness analysis, the economic effects of FPAs), social-impact analysis, and environmental-impact analysis.

5. Priority areas that remain to be addressed for EU-ACP FPAs

Given these global challenges, the need for compliance with WTO rules, and past experience of ACP-EU bilateral fisheries agreements, it is possible to draw up a list of priority areas and demands that need to be discussed as part of the future EU-ACP FPA negotiations.

These priority areas to be addressed include:

A. the Cotonou Agreement should provide the basis for establishing FPAs

B. EU fleets Access conditions

? *flexible adjustment of fishing possibilities* on the basis of annual resource assessments, taking into account the best available scientific information and in accordance with the needs of the local fishing sectors;

? *promotion of good governance*, with a clear distinction made between the financial compensation allocated for fishing access and the monies allocated for investing in sustainable fisheries development. Under no circumstances should the reduction of fishing access lead to a reduction in monies allocated for investment in sustainable fisheries development;

? *promotion of a regional approach* to partnerships in ways that strengthen systems and capacities for collecting, processing and sharing data on catches, fish stocks, ecosystems, fishing effort, and the economic and social importance of the fishery sector. In particular, FPAs should support and build on existing regional research initiatives involving both national research centres and international bodies like the FAO;

? *promotion of transparency*: Impact assessment studies should be publicised to promote transparency, public debate and public control over the process. IAS should also feed in a mechanism allowing participation of the local ACP fisheries sector to the negotiating process.

C. Monitoring, Control and Surveillance

? *the use of VMS* (the vessel-monitoring system) should be systematically introduced with the data collected made directly available in a timely fashion to both the EU and the third state.

? *On-board observer programmes should be compulsory* observers should be paid through public funds and not by the boat owners; observers should be qualified to the same internationally recognised standard.

? By-catch management should make the avoidance of discards a priority, through the *promotion of selective fishing methods; by-catch reporting should be compulsory*;

? *Obligatory landings* would facilitate and enhance the quality of the control.

6. What can be achieved now?

A. Starting the process to establish the Cotonou Agreement as the basis for sustainable and fair ACP-EU Fisheries Partnership Agreements

Although EU Cooperation and Development has an active fisheries programme, the human capacity existing inside the European Commission DG Dev to provide follow-up on these programs is very limited.

However, many EU Member States are interested in establishing EU-ACP sustainable and fair fisheries partnerships. They have extensive expertise in ACP fisheries cooperation and development, which could be used to reinforce the EU capacity to follow-up cooperation and development programs in fisheries.

The Member States with an expertise in the field of fisheries Cooperation and Development have also developed a clear understanding of the concrete lack of coherence between fisheries agreements and development that needs to be addressed.

Their support to the work of DG dev would be a practical way to ensure that the basis for FPAs are the objectives of the Cotonou agreements, and therefore ensure increased coherence between FPAs and Cooperation and Development.

Recommendation 1

Interested EU Member States should explore how synergies can be built between EU and Member States Cooperation and Development programmes in ACP fisheries. The objective would be to enhance the basis on which FPAs might build on (e.g. formulation of a sector policy, resources management (MCS, research etc.), infrastructure, participation of stakeholders to decision making processes, trade, etc)

B. Ensure that EU access to ACP resources is based on the best available scientific information

Another priority to address is to ensure that there is an adjustment of EU fishing possibilities to the resources available to them in ACP waters, on the basis of annual resource assessments, taking into account the best available scientific information and in accordance with the needs of the local fishing sectors. These resources assessments and subsequent adjustments of fishing possibilities are discussed in the Joint Scientific Committee and Joint Commission established in the framework of EU-ACP FPAs.

Recommendation 2

In order to provide the “best available” scientific information, EU Member States where scientific expertise exist (for resources assessment, needs of local fishing sectors, ...) should participate actively to both the Joint Scientific Committees and Joint Commission established in the framework of FPAs.

C. Widen the scope of Impact Assessment studies and promote their use by all the stakeholders

To answer its legal obligation to assess the impacts of FPAs on sustainable development, ex-ante and ex-post impact assessment studies (IAS) have been undertaken since 2003, at the initiative of the European Commission (DG Fish). However, the areas covered could usefully be expanded (and cover, for example, resource valuation and assessment, institutional analysis - presence or absence of management regimes, effectiveness shortcomings, etc) so to provide a more accurate picture of the long term EU-ACP mutual interests for the sustainable development of ACP fisheries.

Recommendation 3 and 4

In order to widen the scope of the ex-ante and ex-post IAS for FPAs, DG Dev and interested Member States with an expertise in the field should be consulted and provide an input.

These IAS should also be made available to all stakeholders in the EU and in the ACP countries concerned in order to promote good governance and transparency.

1. EU Fishing in developing countries: An introduction

The European Union fisheries relations with developing countries, particularly through the signing of EU-ACP bilateral fisheries agreements and partnerships, will be examined against the following background:

- ? **Fishing as a livelihood in developing countries:** Worldwide, fishing and its associated activities, provide a source of livelihood for between 200 and 250 million people. Whilst employment levels may be much lower than in agriculture, fishing livelihoods are strategically important in many remote and isolated areas, with few alternative resources. In many cases fish stocks and other living aquatic resources provide the only source of food for some of the world's poorest communities, with over 60 % of the world's recorded fisherfolk survive on less than USD 1 per day.
- ? **Over-exploitation of resources:** the FAO estimates that approximately 75 % of the world's fish stocks are being fished at or above their sustainable limits; and the catching capacity of the world fishing fleet has far outstripped the rate of natural replenishment. Most of the world's fish catch (around 60 %) is now taken from the waters of developing countries.
- ? **Industrial and artisanal fisheries:** The fishing sector is characterised by dichotomy - of scale, technological sophistication, and wealth. Fishing operations and associated activities go from *small-scale or artisanal* fisheries on the one hand, to *large-scale or industrialised* on the other. More than 90 % of the world's fishery dependent populations rely on small-scale or artisanal fisheries, yet they are responsible for less than half of the total fish catch. The large-scale or industrialised sector, representing only about 1 % of the fishing fleet and employing about 2 % of the fishermen take more than 50 % of the catch.
- ? **Subsidies:** The rapid development of the fisheries catching sector, in particular the industrial sector, is attributable in part to large state subsidies, designed to promote production. Today many industrialised fishing activities are only able to continue to operate profitably because they still receive large subsidies. Subsidies to the fisheries sector globally are estimated at US\$14.0-\$20.5 billion, or approximately 20-25 per cent of revenues. Most of these go to the industrialised sector in the form of boat building and modernisation grants, tax breaks (on fuel), and subsidies on access fees to third country waters.
- ? **Evolving role of the artisanal sector:** Small-scale fisheries have also benefited from modernisation. The use of modern materials (glass fibre for boat building, nylon and other polymers for net making), modern, miniaturised technology (outboard engines, navigation and fish finding equipment, etc.) have enabled the small-scale sector to make an important contribution to economic and social development in many countries, contributing as much as 50 % to the export earnings from the fishery sector. In many situations, small-scale fishing operations may out-compete industrialised operations on economic grounds. Artisanal fisheries also play an important role as an activity of last resort: in cases of natural calamities (drought, famine etc) and in war torn areas, there may be significant in-migrations into fishing.

2. European Union fisheries relations with ACP countries

2.1. The main driving forces in ACP-EU fisheries relations

Bilateral fisheries relations between the EU and ACP countries include:

- ? Fisheries sector co-operation within the framework of ACP-EU development co-operation (the Cotonou Agreement)
- ? Fisheries access agreements/partnerships (within the framework of the international component of the EU's Common Fisheries Policy)

EU-ACP fisheries access agreements

Anticipating the UN Law of Sea Convention, in the mid-1970s an increasing number of coastal states established exclusive economic zones (EEZs) by extending their jurisdiction out to sea from 3-12 to 200 nautical miles. This brought almost 90% of the world's exploitable fish resources under the control of coastal states. The fleets of the EU member states, which had traditionally fished in the waters of other countries, suddenly found themselves barred from them. To ensure continuity of access for their fleets, fisheries agreements were concluded between the EU and the third countries concerned. Currently, 18 of these Community fisheries agreements are with ACP (African, Caribbean and Pacific) countries and involve the payment of financial compensation. In return EU fleets are provided with access to the theoretical surplus resources not exploited by the coastal state.

Fish stocks of interest to the European distant-water fleets in ACP coastal-state waters fall into three main categories:

- ? *demersal stocks: comprising mainly octopus, sole, shrimps, snappers, hake;*
- ? *small pelagics: sardinellas, horse mackerel/scad, sardine, pilchard;*
- ? *the tuna family.*

Fisheries access agreements with third countries, including ACP countries, are an integral part of the EU distant-water fisheries policy, and a central component of the EU's Common Fisheries Policy.

2.2. ACP-EU fisheries agreements: the EU's concerns

The main interests of the EU in signing fisheries agreements with ACP countries were identified in a 1999 study on the costs and benefits of the *'Fishing Agreements concluded by the European Community'* by IFREMER/CEMARE. They include:

- ? **Supplying fish as raw material to EU processing industry.** Given increasing demands on the EU market and decreasing supplies from its own waters due to over-fishing, the EU has to import about 60% of its fish requirements. Since 2000, an additional 9 million tonnes of fish has been needed to meet the demands of the fish-processing industry and domestic consumer. It is estimated that EU-ACP FA have generated a value added of €94 million in the member states through processing and marketing of the fish caught.

- ? **Maintaining fishing capacity outside EU waters.** In the 90's, ACP-EU fisheries agreements allowed an average of 800 EU vessels to operate in developing countries waters. It has to be noted that, over the years, the actual EU fishing effort deployed through ACP-EU fisheries agreements has increased due to technological factors.
- ? **Maintaining EU employment.** The ACP-EU fisheries agreements represent 35,000 jobs, mainly in processing.

Fisheries Access Agreements: Costs and Benefits

The 1999 IFREMER report on the costs and benefits of the 'Fishing Agreements concluded by the European Community' showed that, on average, for every euro of EU public expenditure through the financial compensation, a return of approximately €3 is generated. Most of the benefits from the ACP-EU agreements accrue to Spanish operators, which obtains over 80% of the added value and jobs. France¹ and Portugal benefit from approximately 7%.

These figures, from the end of the 1990's are only indicative of the current situation. Only partial figures are available to the public concerning the current situation concerning jobs created², monies spent³, etc.

Today, the share of benefits across Member States may be only slightly altered, for reasons including the non-renewal of the EU-Morocco agreement and the arrival of some new EU member states with Long Distance fishing fleets (like Lithuania).

Due to the non-renewal of the agreement with Morocco, the budget earmarked for fisheries agreements fell from €278.5 million in 1996 to less than €200 million in 2003. In 2004, the total costs of fisheries agreements amounted to 172 million euros.

For the most important EU-ACP fishing agreements, expenditures in 2004 were as follows:

*86 million euros for EU-Mauritania agreement
16 million euros for EU-Senegal agreement
3.9 million euros for EU-Guinea agreement
4,8 million euros for EU-Seychelles agreement*

¹ Mainly active in the tuna sector

² European Commission, DG Fisheries and Maritime Affairs, «Commission temporaire sur les défis politiques et les moyens budgétaires de l'Union élargie 2007-2013», Bruxelles, 26 janvier 2005

³ Exécution budgétaire 2004 (Paiements) au 31/12/04, Accords de Pêche Internationaux, Ligne 11.0301 (ex. B7 – 8000), Dépenses pour la gestion administrative des accords, European Commission

2.3. EU fisheries access agreements and EU Development and Co-operation instruments

In budgetary terms, and in their overall influence on EU-ACP fishing relations, EU-ACP development co-operation activities in the fisheries sector play a relatively minor role in comparison to ACP-EU fisheries agreements. For example, over the last five years the annual 'compensation payments' made through fisheries access/partnership agreements has averaged €150 million. In comparison, an average annual allocation of around €30 million has been allocated to fisheries projects under EU development co-operation⁴.

Thus, the main force driving EU-ACP fisheries relationships up to now, has been the distant-water fishing policy of the EU, (an intrinsic part of the EU Common Fisheries Policy) with the main objective of defending EU fishing interests.

The interest of Development Cooperation in fisheries agreements has first to do with the coherence issue. The obligation of coherence (*Article 178 of the European Community Treaty*) means that the objectives of EU cooperation and development policy have to be taken into account when implementing other policies, like EU-ACP fisheries agreements, likely to affect developing countries. The coherence principle is also mentioned in the Cotonou Agreement which stipulates that any fishery agreement that may be negotiated between the EC and the ACP States shall pay due consideration to consistency with the development strategies in the area of fisheries⁵.

EU communications in relation to fisheries relations with ACP countries

Communication from The Commission to the Council and The European Parliament on Fisheries and Poverty Reduction Brussels, 8.11.2000 COM(2000) 724 final

Council Resolution on Fisheries and Poverty Reduction. Brussels, November 2001.

Green Paper on The Future of The Common Fisheries Policy. Brussels, 20.3.2001 COM(2001) 135 final

Communication from the Commission. Community Action Plan for the Eradication of Illegal, Unreported and Unregulated Fishing, COM(2002) 180 final,

Communication from the Commission on an Integrated Framework for Fisheries Partnership Agreements with Third Countries. Brussels, 23.12.2002. COM(2002) 637 final. Commission of the European Communities.

Council conclusions on Fisheries partnership agreements with third countries. Brussels, 19.07.2004. 2599th Council Meeting Agriculture and Fisheries.

⁴ ACP countries do not privilege fisheries in their National/Regional Indicative programs, which is one of the reasons why ACP fisheries sector programs receive so little EU aid.

⁵ Fisheries agreements are dealt with in Part 3 of the Cotonou Convention, under Title II: Economic and Trade Co-operation, Chapter 6: Co-operation in other areas. Article 53 on Fishery Agreements contains 2 elements that concern: a) the willingness to negotiate fishery agreements aimed at guaranteeing sustainable and mutually satisfactory conditions for fishing activities in ACP States; and b) a commitment on the side of the ACP States not to discriminate against the Community or among the Member States, without prejudice to special arrangements between developing States within the same geographical area, including reciprocal fishing arrangements, when concluding or implementing such agreements, and a commitment from the Community not to discriminate against ACP States.

Since 1996, and the signing of a new protocol between the EU and Senegal which include the first “targeted actions”, provisions have generally been included in the fisheries access agreements that address such development issues as fishery management, support to the artisanal sector, local landings etc. The EU has also taken some significant steps in recent years to embrace sustainable development objectives in both the internal and external dimensions of its “Common Fisheries Policy” (CFP). These steps have included:

- The issuing of a European Commission (EC) Communication on Fisheries and Poverty Reduction in 2000. This was the first time that a link was officially made between the policy objectives for development co-operation and those of fishing. Key issues were identified as pre-requisite for the sustainable development of the fishing sector in developing countries.
- A step further was taken in 2003 through the Council’s conclusions on an Integrated Framework for Fisheries Partnership Agreements (FPAs) with Third Countries. This proposes policy changes in bilateral fisheries relations with developing countries that would contribute to responsible fishing in the mutual interest of the Parties concerned. FPAs aim to ensure that both the interests of the EU distant-water fleet are protected and that the conditions to achieve sustainable fisheries in the waters of the partner concerned are strengthened.

2.4. Practical outcomes

Although significant steps have been taken to ensure coherence between EU-ACP fisheries agreements and EU Cooperation and Development objectives through the Cotonou agreement (i.e. sustainable development and poverty reduction), implementation has been more problematic. Areas of difficulties are listed below.

A. Basis for estimating real EU fishing fleets impacts

? Estimation of the fishing effort

In EU-ACP fisheries access agreements, the fishing possibilities for EU fleets are given either in GRT (Gross registered tonnage) for demersal fisheries, or, in the case of tuna fishing and small pelagics fishing, in number of boats, with no other specification. ACP negotiators may be systematically underestimating the catch and impact of the EU fleets in the agreements that are signed by using such imprecise measurements of capacity. Often, due to technological creep⁶, more resources are being fished than expected and the financial compensation does not reflect the real value of the fish caught. In the case of West Africa, subsidising EU fleets for modernisation has led, in mid-1990s, to an important increase in capacity: the figures given for EU GRT in West African trawl fisheries, taking into account technological progress, show an annual increase in efficiency of approximately 14%⁷.

? Fishing practices

EU fleet regulations are much less detailed for operators fishing through ACP-EU fishing agreements than for operators in EU waters, particularly concerning gear selectivity. For example, demersal trawling in EU waters has to comply with a variety of criteria (mesh type, netting material, twine diameter, extension length, etc). In ACP-EU fisheries agreements, the only criteria mentioned for demersal trawlers is the mesh size.

This has implications for the sustainable exploitation of ACP fish stocks, particularly in places like the Gulf of Guinea, where by-catch contains a high level of juveniles. There are also implications for the value of the catches being made by the EU in ACP waters, since some of the by-catch species are in fact high-value commercial species. For example, a study⁸ showed that in the mid-1990s, the value of discards incurred by the EU fleet in Senegalese waters (based on their value as fish for reduction to fish meal) was equal to approximately 18% of the financial compensation received

It is not always the case that EU boats abide by the third country regulation on these aspects. In some cases, certain fishing gears, prohibited for national ACP fleets continue to be used by EU fleets, like the monofilament, banned by Mauritanian authorities but still in use, end of 2004, by EU (mainly Portuguese) fleets fishing in Mauritanian EEZ.

⁶ Johnstone, N. (1996). *Economics of Fisheries Access Agreements: Perspectives on the EU-Senegal Case. Discussion Paper 96-02*. London: International Institute for Environment and Development).

⁷ *idem*

? **Over-exploitation of ACP fish resources**

Under the United Nations Convention on the Law of the Sea (UNCLOS), distant-water fleets (like those of the EU) are only supposed to have access to resources that the coastal state is not able to exploit itself (the “*surplus*”). In many cases, current fisheries agreements give access to resources which are fully exploited or even over-exploited (demersal coastal species in West Africa is the best example). Most fisheries agreement protocols advocate that: *'The state of resources shall be reviewed periodically on the basis of the available scientific data'*. And that: *'The fishing opportunities may be adjusted in the light of the state of fisheries resources'*, BUT, in such a case: *'the total financial contribution shall be adjusted proportionately'*.

In the example of the last EU-Angola fisheries protocol, the impact assessment study indicates that in the shrimp fishery, the protocol is considered to fail to promote responsible fishing, given that the management recommendation of a fleet total of 35 vessels was ignored at the time of negotiation. This contravenes the UNCLOS surplus principle for the operation of distant water fleets.

The linkage made through fisheries agreements protocols between the level of fishing possibilities granted to EU fleets and the level of financial compensation paid by the EU creates, for the often highly indebted third country, conflict between receiving foreign currencies payments for access rights on the one hand, and resource conservation on the other.

B. Monitoring, Control and Surveillance (MCS)

? **Observers programs**

Many ACP countries with EU fisheries agreements have sizeable EEZs to police and control. Often they lack the capacity to do so in an efficient way. It is therefore very difficult for an ACP country to assess the quantities and value of the fish caught by distant-water fishing nations like the EU, particularly in the case of tuna fishing. But problems arising from the monitoring, surveillance and control of EU fishing operations in ACP waters are also caused by the terms of the agreements themselves. In EU-ACP fisheries access agreements, EU boat-owners can default on the obligation to embark observers by making a small compensation payment. Observers, when embarked, are often directly paid by the boat owners, and not by an independent body.

The use of VMS, introduced in the latest access agreements is designed to partly address the issue of reporting by locating where fishing boats are and whether they are fishing or not. However, in the case of the last EU-Angola protocol, the Impact Assessment Study acknowledged that the implementation of the satellite VMS on the EU fleet has been unsuccessful. For all agreements including provisions for the use of VMS, the impossibility for the third country to receive from the EU real time satellite VMS data weakens the interest of the system as a tool for monitoring and control. Its effectiveness is also highly dependent on the capacity of the coastal state to back up such systems with patrol vessels and the ability to monitor catches directly.

? **Catch reporting**

In the case of Mauritania, under the previous fisheries agreement protocol, only two thirds of the EU vessels fishing under the agreement were reporting their catches. The fact that the fish is not landed in Mauritania but goes straight back to EU harbours (Las Palmas and Vigo mainly). In the tuna agreements, although there may be landing provisions, landings are not obligatory. Boat owners may pay a token fee not to avoid landing the tuna in the ACP country. Such practices make any control on catches very difficult.

The extent of un(der) reporting of EU fleets fishing outside EU waters has been shown in the Commission's report on the monitoring of the member states' implementation of the common fisheries policy 2000 – 2002⁹, released in January 2004. The report highlights that *“monitoring of activities of fishing vessels operating beyond Community waters remains an issue which must be particularly targeted ... much data is entirely absent for certain activities in waters where EU agreements with third parties have been concluded”*.

The situation hasn't much improved in 2003, as is shown in the main findings of the 2004 “Fisheries Compliance Scoreboard”¹⁰. The Compliance Scoreboard provides information in five areas: catches, fleet, funding, market traceability and monitoring/control activities. This includes information relating to EU activities in third-country, notably ACP waters.

For activities outside EU waters, EU member states must submit reports providing catch data (E and F reports) on a quarterly basis to the EC, detailing the quantities of each species taken from third-country waters and the high seas that is landed in their territories, either by vessels flying their flag or the flag of another member state.

A very low level of compliance has been observed with regard to these E and F reports. The scoreboard concludes that *‘as for E and F reports, despite some progress, the situation remains unsatisfactory with regard to catches in non-EU waters. The EU is fully committed to ensuring sustainability wherever its fishing fleets operate and the monitoring of catches beyond EU waters has a crucial role to play in meeting this objective.’*

⁹ Report from the Commission on the monitoring of the member states' implementation of the common fisheries policy 2000 – 2002, Brussels, 4.1.2005, COM (2004) 849 final
<http://www4.europarl.eu.int/registre/recherche/NoticeDetaillee.cfm?docid=116609&doclang=EN>

¹⁰ 2004 Fisheries Compliance Scoreboard – Main findings
http://europa.eu.int/comm/fisheries/news_corner/press/inf04_34_en.htm

C. Development of the local fisheries industry

- ? The benefits generated by EU fishing operations tend to accrue to EU operators, even in cases where ACP fish resources are not under threat. In the terms of the agreements, there are a number of constraints to maximising the benefits from fishery agreements locally. For example, most of the fisheries agreements have provisions for compulsory landings, but very seldom are these landings obligatory (with notable exceptions as in the case of Senegal) since there are also provisions that allow boat owners to default on their obligations to land fish if they make a compensation payment. Furthermore, the quality of the landings are not stipulated, and EU boats tend to land lower value fish (both in quality and species), sometimes as a result of high grading¹¹ practices. For tuna landings, under-reporting of catches and lack of capacity of the third state to monitor these catches makes it difficult to prove how much has been caught inside a country's EEZ and how much should be landed.
- ? Although a social clause has been introduced in the latest agreements, it is still possible for EU vessels to escape their obligation of embarking local crew against the payment of a fee.

D. Accountability

In 2001, the EU Court of Auditors carried out an audit¹² of the Commission's management of international fisheries agreements. The main findings of their audit include the following aspects:

- The financial compensation of some agreements increased by about 40% between 1993 and 1999, whilst there was a slight decline in the reported use of the fishing opportunities offered in return. The Court of Auditors concluded that either the Community had paid financial compensation for fishing opportunities that only existed on paper, or that reported catches did not reflect the real uptake of the opportunities offered;
- The mixing of commercial interests with the developmental aspects of the fisheries agreements means that it is difficult to evaluate them in many cases. The Commission should therefore clearly define the different objectives so as to be able to measure their respective costs and benefits.

Some particular aspects were audited, concerning the assessment of costs/benefits by the European Commission, and the ability to monitor the implementation of bilateral agreements. The following cases are presented by the Court of Auditors, highlighting weaknesses that currently still exist, in particular:

- The Commission was able to supply data on costs but not for the catches value nor for their direct or indirect impact. In commercial negotiations, it is absolutely vital for these figures to be available.
- The construction of EU vessels fishing destined to fish in third countries waters was undertaken without any systematic check as to whether the catch capacities were appropriate for the resources covered by the agreements.

¹¹ Discarding of lower valued fish is known as "high grading" and it is especially a problem in mixed fisheries, like ACP demersal fisheries

¹² The European Commission's management of international fisheries agreements, audit report, European Court of Auditors, Brussels 2001 http://www.eca.eu.int/audit_reports/special_reports/docs/2001/rs03_01en.pdf

- When the agreement with Senegal expired in 1997, the Commission was unable to accept the price requested. Agreement was reached after the Commission drew attention to an increase of an undefined amount in the EDF funding (1)¹³. In this instance, neither transparency nor the budgetary principle of specification of expenditure was abided by.
- In the case of the EU-Morocco agreement, the agreement contained a provision that licence fees for EU vessels could be lowered if EU vessels landed in Morocco. The Court found that the practice of European vessels unloading and reloading their entire catch had occurred in four of the five cases examined in the period from 4 December 1998 to 2 March 1999. Even if the aim is to obtain a reduction in the licence fee, there is no point whatsoever in frozen fish being systematically unloaded and then reloaded at a Moroccan port when it is intended to be sold elsewhere. It meant that a fundamental aspect of the Morocco Agreement isn't being observed, namely greater cooperation in order to develop the Moroccan fishing sector.
- Although primary responsibility for inspection of the fishing activities in the waters of a third country lies with the country concerned, European vessels must comply with the international fisheries agreements and with the provisions of the regulations in force. However, the Court's audit, at the time of the inspections in which it took part, revealed infringements concerning the landing of juvenile fish, incomplete or incorrect logbook information (mostly under-declaration of catches), incomplete logbook pages. The shortcomings that have been identified, especially those concerning the logbook, do not enable the Commission to ensure proper monitoring of the implementation of the agreements nor to evaluate their benefit.

¹³ *Commission letter 000405 of 4 March 1997 to the Senegalese authorities.*

3. EU Fisheries Subsidies

There are a number of EU fisheries subsidies affecting EU-ACP fisheries relations: grants for vessel construction, tax breaks (e.g. on fuel), infrastructure development, subsidised loans, market support, third country fishing access fees, etc. Detailed information on the extent of these EU subsidies exists at the Member States level, but often doesn't find its way back to the EU Commission.

There are two main areas where EU fishing subsidies have had an important impact on EU-ACP fishery relations:

- ? Grants to vessel owners to establish joint ventures in ACP States and to transfer their vessels there. For example, in the case of Senegal in 2000, 31 Spanish vessels were transferred to the Senegalese vessel register, of which 16 received EU structural fund subsidies to set up joint venture companies.
- ? The financial compensation paid under ACP-EU fisheries agreements represents an important subsidy for the EU fleet towards their costs of access to ACP waters. Overall, EU boat owners paid only about 20% of their access costs, the rest being covered by public funds through the financial compensation payments. For example, the EU fisheries agreement renewed with Mauritania in August 2001 for five years will compensate the Mauritanian government to the tune of €430 million over the five years in return for EU access to a variety of fish stocks.

At a meeting on the future of ACP-EU fisheries relations, the Director of Fisheries from Senegal, Mr Ndiaga Gueye pointed out¹⁴ that thanks to these subsidies, EU vessels have been able to carry on fishing even when the stocks were too low to make it economically profitable, with the result being unfair competition with local fleet, especially the artisanal sector, and increased over-fishing.

The subsidies provided to EU fishing vessels means that EU fishing vessel operators do not have to recover their full capital and recurrent expenditure costs through the sale price of the fish they catch. Therefore, they can sell fish at lower prices than local fishermen.. In the Mauritanian cephalopod fishery, the selling prices offered by the Spanish fleet on Asian markets are 20% less than selling prices offered by Mauritanian artisanal fishermen on the same market. Competition on a same decreasing resource is aggravated by competition on the same market.

The implications of these subsidies are that they are undermining artisanal fishing communities as well as contributing to the over-exploitation of global fish stocks. Dr Chérif Ahmed Mahmoud, a Mauritanian scientist, pointed out that the Mauritanian artisanal fleet, with no subsidies, is going to die. In the case of Mauritania, there is today a “de-nationalisation” of the fisheries sector, going against the will of the Mauritanian government to integrate the fisheries sector in the Mauritanian economy»¹⁵

¹⁴ CTA and Commonwealth Secretariat Meeting on “EU-ACP fisheries relations: towards more sustainability”, April 2003, Brussels

¹⁵ CFFA Exchange programme, future EU-ACP fisheries relations in West Africa, 2003

Dr Roman Grynberg, from the Commonwealth Secretariat, stated, at the occasion of a meeting on EU-ACP fisheries relations that¹⁶, as a result of the fisheries subsidies negotiations at the WTO, there was a considerable risk that distant water fishing nation fiscal support for what are seen to be unsustainable third country access fees will be attacked by several important WTO members, on the grounds that it distorts the economics of fishing and leads to overcapacity and overfishing.

As regards access fees for EU-ACP fisheries agreements, the EU has already taken the decision to transform its EU-ACP fisheries agreements in WTO-compatible Fisheries Partnership Agreements. The Commission's communication on Fisheries Partnership Agreements noted that the private sector shall progressively assume greater responsibility for the financial contribution given in exchange for fishing possibilities. The Commission also argues that the EU's financial contribution will be based on the mutual interest to invest in sustainable fisheries policies, rather than the need to pay for access rights.

It must also to be noted that, in one of the last submissions for WTO negotiations on fisheries subsidies, "*government expenditure for access*" – such as the financial compensation of EU-ACP fisheries agreements-, is presented as one of the subsidies that might not be prohibited.

A discussion about these subsidies that WTO members may wish to maintain under any new disciplines on fish subsidies is probably the next step in WTO negotiations on fisheries subsidies¹⁷.

In future EU-ACP fisheries relations, there is certainly a need to redesign access fee arrangements so that they become fully WTO compatible. The basic principle being that the access fee should be based upon the direct contribution of the fishing vessels themselves. This would result in a very substantial decline in government revenue in ACP coastal States. In order to compensate for the loss of revenue, there is a need for a development assistance package, strictly decoupled from access or catch levels.

¹⁶ CTA and Commonwealth Secretariat Meeting on "EU-ACP fisheries relations: towards more sustainability", April 2003, Brussels

¹⁷ WTO, NEGOTIATING GROUP ON RULES, FISHERIES SUBSIDIES, COMMUNICATION FROM ARGENTINA, CHILE, ECUADOR, NEW ZEALAND, PHILIPPINES, PERU, TN/RL/W/166, 2 NOVEMBER 2004

4. Fisheries Partnership agreements: background

In its road map about the effects of the reform of the CFP on its external policy, the EU commission states that: *“Owing to mounting competition for scarce fish resources, it is increasingly difficult for the EU to conclude bilateral fisheries agreements giving its fleets access to surplus fish stocks in the waters of third countries”*.

To take up the challenges stemming from this new situation, the Commission, as part of the reform of the CFP, has proposed *“a strategy based on contributing to assessment of stocks accessible to Community vessels outside EU waters and on creating a general framework for partnerships with developing countries, in particular those with which the EU has signed Fisheries Agreements. These new partnerships will promote dialogue with the countries concerned to help them gradually develop a policy leading to sustainable fisheries in their waters while achieving their development objectives.”*

To implement the new approach, the EU has developed a Strategy for European distant water fisheries. This strategy includes the following elements:

- An action Plan to eradicate illegal, unreported, unregulated fisheries (IUU).
- An integrated framework for fisheries partnership agreements. (Council conclusions adopted in July 2004). These Partnership agreements will ensure both that the interests of the EU distant-water fleet are protected and that the conditions to achieve sustainable fisheries in the waters of the partner concerned are strengthened.
- An Action Plan to improve stock assessment outside Community waters. This demonstrates the Community's commitment to contribute to responsible fisheries through its participation in stock evaluation, for the mutual benefit of Community's fishermen and the third countries involved.

Unlike “old fashioned” EU-ACP access agreements, Fisheries Partnership Agreements are intended to be WTO-compatible in that financial contributions under CFP are justified by the “mutual interest of two parties to invest in sustainable fisheries policy and not just as a payment for access rights” and, as such, “cannot be considered as a subsidy to European fishermen. To be fully WTO-compatible, however, such investments must be fully uncoupled from access, with access costs being payable in full by vessel owners.

Although the EU seem to have taken this into account, how “decoupling” will be achieved is not clear. In its Communication on Fisheries Partnerships Agreements (FPAs), the European Commission has noted that *“This contribution is justified by the need for the Community, by mutual interest, to provide adequate support to the development and the management of a sustainable fishing policy in the third countries where the European fleet is operating. For the future, the Community financial contribution will have to be regarded as investments for the improvement of responsible and rational fishing and therefore “based” on new considerations. This contribution mainly covers expenses linked to management costs, the scientific assessment of fish stocks, fisheries management, control and monitoring of fishing activities, as well as expenses for the follow up and evaluation of a sustainable fishing policy.*

5. Access Agreements and Partnership Agreements

The debate on FPAs at the Council of Ministers level lasted 18 months, reflecting the complexity of the issues at stake for the EU. Whilst the result may be a compromise acceptable to all EU member states, some key problems remain unsolved. The text therefore suffers from a certain lack of clarity, and contains some potential contradictions, leaving it open to a variety of interpretations during the negotiations with ACP countries. Some further indications of the general direction that will be taken by the EU can also be found in the European Parliament resolution on FPAs adopted at the end of 2003.

5.1. Resource conservation and priority access to local fleets

In its conclusions, the Council resolution highlights some issues of key concern for ACP countries, such as the prevention of overfishing, ‘in particular for stocks of importance to local people’. This echoes the resolution from the European Parliament which insisted that FPAs should contain measures ‘to protect small-scale indigenous fisheries, to promote the landing of fish locally and require access to be dependent on the use of selective fishing methods’. The European Parliament also stressed that ‘no agreement should be sought in relation to access to stocks that are already fully exploited or in danger of overexploitation’.

This gives a new practical – and logical – interpretation to the issue of the ‘surplus’ to which alone EU fleets are supposed to get access. In the past, notably in West Africa, the EU pushed to get access to some fully exploited resources (in Senegal) or even overexploited resources (in Mauritania).

Many stocks targeted by EU vessels are the same as those targeted by national ACP fleets (artisanal and industrial), and they are often export species of high value. These are therefore important statements for the national fisheries sectors of ACP countries. If the simple rule is followed, that where resources are fully exploited, or over-exploited, the EU should not seek access, then a big step towards greater sustainability will have been taken.

5.2. Subsidies for vessel transfers

The Council Conclusions state that FPAs should promote ‘European investments and the transfer of technology and vessels’. Whilst technology transfer and EU investment figured in the Commission’s Communication on FPAs, a crucial detail has been added – that of vessel transfers. This re-opens the possibility of subsidies, through the financial contribution, for vessel transfers from the EU to third countries. The difference being that the EU operators will ultimately receive the funding from the third country rather than from the EU. Some conditions may therefore be put by the third country for giving the subsidy, like compulsory landings.

At best, this could mean the transfer of boats which de facto have been fishing for a long time in ACP waters, which are integrated locally and do not create or add to local over-capacity. But, as has been the case in the past, such transfers could also cause local over-capacity, and direct and unfair competition with local fleets, leading ultimately to the over-exploitation of resources. It is for this very reason that the subsidised transfers of EU boats to third countries through the Financial Instrument for Fisheries Guidance was stopped at the end of 2004.

EU-ACP Fishing Joint ventures: the example of the EU-Argentina agreement

Formal EU fisheries-access agreements with countries in the South have up to now been on a strictly sectoral basis, involving 'cash for access'. These are often described as 'first generation agreements'. Only one 'second generation' fisheries agreement, with Argentina in 1992, has been concluded by the EU. In this case fisheries access was achieved through establishing joint-enterprise companies and temporary joint enterprises, and EU vessels were transferred to these 'Argentinean' companies. This agreement was to prove disastrous for the Argentine hake fishery and the Argentine authorities were forced to take drastic action to prevent complete resource collapse. The agreement has not been renewed, but EU operators are now asking for a new agreement so that 'EU operators' investments in Argentinean fisheries could be protected'.

5.3. What about the financial contribution?

The Council of Fisheries ministers are *'anxious to ensure that the Community financial contribution under the CFP effectively and adequately supports the establishment of responsible and sustainable fishing in the interests of the parties.'* This would be achieved by:

- ? making all fishing opportunities accessible to Community fishing vessels in the light of the best scientific opinion available and better knowledge of the state of the fisheries and of the fishing effort deployed by both national and foreign fleets;
- ? pinpointing action to promote the sustainable development of fisheries, in particular action to improve the scientific and technical evaluation of the fisheries concerned, monitoring and supervision of fishing activities, hygiene requirements and the business environment of the sector; and
- ? the impact of the partnership agreement as well as the participation of European interests on the partner coastal state's fisheries sector as a whole, with regard to its aspirations towards development under rational and sustainable economic and social conditions and to its commitment to implementing a sustainable fisheries policy in the interest of both parties.

This single financial contribution will be deployed according to the budgetary procedures of the partner state and according to the results of the negotiations.

Although the renewal of ACP-EU agreements is becoming increasingly costly, if the EU is serious about investing in 'scientific and technical evaluation of the fisheries, monitoring and supervision of fishing activities, hygiene requirements, etc' and also given that some new EU member fleets will come under bilateral partnerships (like the Lithuanian fleet in Mauritania), the costs will rise.

The challenge of developing an EU-ACP policy dialogue

The EU fisheries ministers also call for the *‘progressive development of a policy dialogue at national and/or regional level with coastal states, offering Community vessels access to the surplus fishing stocks in the waters under their sovereignty and/or their jurisdiction’*. This represents a move away from a so-called ‘commercial negotiation’ to a ‘dialogue on sustainable development’. But, as has been argued, negotiations based on subsidised access for EU fleets to ACP waters have never been commercial in any case, and it remains to be seen whether this move will make any difference in practice.

There seems to be a strong conditionality to this ‘dialogue’, which pre-supposes a surplus of resources, implying that ACP countries had better find a surplus, even if this means cutting the local fleet, or disregarding scientific data that show stocks are already fully exploited. Once again, a detrimental linkage is being made between access to resources on the one hand, and the setting up of a dialogue (with the consequent financial aspect) on the other. This could lead to a situation with a built-in bias towards unsustainable levels of fishing.

In theory, such a situation should not arise, as the EU has undertaken to give ‘due consideration to the third-country priorities for the development of its fisheries sector’. It is therefore vitally important that, in consultation with their national sector, and with financial support from third countries Development and Cooperation schemes, ACP countries define clear national priorities for the development of their fisheries sectors that maximise economic, social and environmental benefits for their population.

5.4. Regional action

The importance of acting at a regional level for research, monitoring and control is also stressed in the Council’s conclusions. This is to be welcomed, particularly as it paves the way towards a regional approach to EU-ACP negotiations. This is crucial for fisheries agreements with a regional component (based on migratory or shared stocks, on species caught locally and traded regionally, etc).

It is also important to note the emphasis placed by the Council on the ‘fight against IUU fishing’. This was also a key point in the European Parliament resolution on FPAs, which urged the Commission ‘to request that the third countries involved apply to all other nations’ distant-water fleets operating in their waters the same set of rules which it applies to the Community fleet, respecting the obligations committed to in multilateral agreements, in particular the fight against illegal fishing’.

This should mean more financial support for the control of illegal fishing by all parties, including the illegal practices of some EU fleets. These have been unveiled by the poor results of the ‘compliance scoreboard’ for EU activities outside EU waters.

5.5. *Impact assessment studies*

As of January 1st 2003, the EU is legally obliged to assess the impacts on sustainable development through undertaking impact assessment studies (IAS) of all its policies. This includes the international aspects of its Common Fisheries Policy (CFP), such as the EU-ACP fisheries access agreements. Ex-ante and ex-post impact assessment studies (IAS) have been undertaken since 2003, at the initiative of the European Commission (DG Fish).

Looking at DG Fish call for tender for these '*assessments, impact analyses and monitoring services in connection with Fisheries Partnership Agreements (FPAs) concluded between the European Community and non-member coastal states*', the domains to be examined include:

- ? the current fisheries situation in the coastal state, including fisheries policy, spending on fisheries, international aspects of the fisheries policy, analysis of the consistency between the coastal state's national fisheries policy and its international obligations, environmental aspects, the stakeholders' views, etc;
- ? the specific aspects of evaluation and impact analysis of FPAs, including economic and financial analysis (such as stakeholder identification, cost-benefit and cost-effectiveness analysis, the economic effects of FPAs), social-impact analysis, and environmental-impact analysis.

It has also to be noted that until now, the results of these IAS are only available in full to the services of the Commission, and not the EU Member States or to the ACP stakeholders concerned.

6. Practical changes in EU-ACP fisheries agreements negotiations

Since the adoption of the Council's conclusions on fisheries partnership agreements, several fisheries agreements, either tuna protocols or mixed protocols, have been renewed. Has anything changed to make them reflect the "partnership approach"?

6.1. General issues for future EU-ACP Mixed partnerships

The main ACP region where ACP-EU mixed¹⁸ agreements are in force is West Africa.

Many West African states have important small-scale fisheries, which provide an important source of livelihood and food security. In some cases EU and other foreign fishing activities compete both directly (for space and resources) and indirectly (for markets) with these fisheries.

There are a number of issues arising from such competition:

- Certain fishing activities, notably prawn trawling, generate significant quantities of by-catch. Such by-catch may consist of valuable non-target species, of low value non-target species, or of juvenile fish of both target and non-target species. From an economic point of view, by-catch of valuable non-target species by EU vessels represents an economic loss to the ACP States. From a conservation perspective, high levels of by-catch may cause disruptions in the predator-prey relations and other wider ecosystem disruptions.
- In some cases ACP States fish catching and processing sectors compete directly with EU fishery enterprises to obtain the benefits from the value added processing. In such cases, particularly where resource scarcity is exacerbated by over-fishing, ACP States may find the costs of compliance with EU hygiene and food safety regulations too high. They therefore often find themselves forced to enter into a fisheries agreements that discriminate against their own catching and processing sectors.

One of the most unselective fishing operations in the world is coastal trawling in tropical waters. However, bilateral agreements with Mauritania, Senegal, Guinea, etc provide access for such trawler fleets targeting high-value species, often fully exploited/overexploited, like shrimps and octopus.

The West African fishing grounds provide the basis of the so-called "pay, fish and go" (or "cash for access") EU-ACP fisheries agreements¹⁹ and are, with notable exceptions (Cape Verde has a tuna agreement with the EU), mixed agreements. The proximity of the EU (notably the port of Las Palmas in the Canary Islands) means that EU fishing fleets prefer not to land their fish locally.

¹⁸ A mixed agreement provides access to tuna + demersal species, and in some cases, small pelagics

¹⁹ There are 11 such fisheries agreements with West African countries: Angola, Cape Verde, Equatorial Guinea, Gabon, Guinea Bissau, Guinea Conakry, Ivory Coast, Mauritania, Sao Tome & Principe, Senegal

6.2. The example of the EU-Guinea new protocol

The Republic of Guinea and the European Union new Fisheries Agreement Protocol covers the period 1/01/2004 to 31/12/2008. It was described by the European Commission as being “one of the first protocols to be implemented in the spirit of Fisheries Partnership Agreements”.

With a population of 7,600,000, Guinea also possesses significant fishery resources. Guinea has the largest continental shelf area of Atlantic Africa (56,000 km²) and a coastline of 320 km. Total fishery production (from both artisanal and industrial sectors) in 2001 was more than 135,000 tonnes. Catches are mainly of small pelagic species taken by artisanal fishermen to supply both the local fresh fish markets and women fish smokers. Their smoked products are destined mainly for inland markets. Nevertheless, despite a wealth of resources, there are insufficient supplies to meet the needs of the Guinean population.

Consequently, a specific objective of the 2003 national fisheries policy is to improve the contribution to “*food security by increasing fish consumption from 13kg per person/year to 17kg per person/year by 2010*”. Given that artisanal fishing is the main supplier to the local market, the fishing policy gives special attention to this sector.

One recurring obstacle that prevents this fishing policy from achieving its objectives is the proliferation of illegal fishing, primarily trawling in the coastal zone. Although the majority of these pirate vessels are Asian, some use Las Palmas as a base and some are owned by European operators. Local fishermen have been the first victims of these illegal practices (collisions at sea resulting in deaths, destroyed equipment etc) which also hinder the attempts of Guinean authorities to control the exploitation of its stocks and to maximise the socio-economic benefits that can be gained from them.

In terms of the state of the resources, in a 2002 report, the CNSHB²⁰ pointed out that the situation in coastal zone is worrying “*due to the large amount of juveniles being caught*”, which according to CNSHB might explain the high discard rate from trawlers. The Centre also points out that findings from the coastal zone “*show the destructive power of uncontrolled industrial fishing*” and calls for a ban on non-selective fishing techniques:

If we examine the access granted to Europeans trawlers, the permitted by-catch levels for European boats are extraordinarily high when compared to those allowed for Guinean national trawlers²¹ under the national fisheries policy. The acceptable by-catch quotas are 35% for European cephalopod trawlers, while for similar type Guinean trawlers they are limited to 7.5%. For shrimp operations, permitted European by-catch levels may be as high as 30%, while for Guinean trawlers it is limited to 12.5%.

The by-catch levels set for Guinean vessels took account of the state of demersal fish species and the excessive catch levels of juveniles. This raises serious questions about the lenient by-catch levels set for EU trawlers, and its negative implications for achieving sustainable development.

²⁰ Boussoura National Centre for Fishery Science (Centre National des Sciences Halieutiques de Boussoura), Campagne scientifique de chalutage Al Awam en vue de l'évaluation directe des ressources marines, <http://www.cnsbh.org.gn/>

²¹ 2002 Fisheries Plan, Republic of Guinea, Available potential and percentages of authorized by-catch.

Indeed, under certain circumstances, the new Protocol²² allows the by-catch levels for EU boats to be exceeded. Thus by-catch levels for cephalopod trawlers are up to 52%. But at levels above 50 %, this is hardly by-catch.

The lack of selectivity of the European trawlers puts a different light on the by-catch landings (200 kgs per GRT) that must be made free of charge in order to “*improve local food security*”, particularly when the by-catch comprises excessive levels, and often juveniles, of over exploited stocks. In fact Guinean women fish processors have been complaining that the fish available are becoming increasingly smaller...

This also calls into question the long-term strategy of the European Union to encourage the creation of joint ventures for transferring these types of vessels. The impact of these on Guinean fishery resources could be severe. To avoid any rapid depletion of stocks and the coastal ecosystem by European trawlers, there should be provisions in the Protocol that clearly define how these joint ventures would fit into the overall framework.

But the case of the non-selective fishing in the EU-Guinea Protocol applies to the majority of EU-ACP fishery agreements where trawlers are operating. Selectivity criteria and conditions should therefore be clearly defined for European fishing activities in this and all new agreements. This would certainly be a better way of maintaining stocks and thus truly promoting local food security, something that largely depends on the vitality of the local fishing communities and the health status of the stocks they fish.

Whilst doubts may be raised about the contribution of the free by-catch landings to long-term food security for the Guinean population, the protocol does contain provisions which could better achieve the same end. Notably the protection of the artisanal fishing zone, the main supplier of low priced fish to the local population.

The new Protocol includes the following measure: “*The Republic of Guinea undertakes to incorporate in its fisheries plan for the year 2004 and subsequent years during the validity period of this Protocol a provision reserving for the Guinean non-industrial fleet the fishing zone between the coast and the 20 metres isobaths and, where this isobath is reached less than 12 miles from the coast, the zone between the coast and 12 nautical miles from the coast*”.

However this is conditional: “*In order to avoid discrimination against the Community, this provision shall be applicable to the Community fleet only where it is applied to all industrial fleets without exception...Until this date, the fishing zone of the Community fleet will be the same as at present (starting 10 miles from the coast)*”.

While both parties may be willing to implement this provision, there is likely to be resistance to change from the other industrial fleets that operate, often illegally, in the 12 mile zone. It is therefore extremely important that the EU use all their available means to help the Guinean authorities to reserve the 12-mile zone (and 20m depth) exclusively for artisanal fishing.

Provisions in the new Protocol agreement include increased means for combating illegal fishing in Guinean waters; increased levels of financial compensation for targeted actions, a subsidy for the purchase of two surveillance boats. Other provisions aim to *replace pirates*

²² Annex, Art 5

with responsible fishers”, i.e. European boats. Any increase in fishing opportunities from 2005 must be accompanied by the equivalent reduction in the quota of licences issued outside the scope of agreements.

There are also other aspects that would be worth including in the Protocol. Various boats involved in illegal fishing in Guinea use La Palmas (Canary Islands) as a base. Therefore reinforcing controls at landing harbours, possibly with mixed Guinean/EU teams, would provide a useful additional measure in the agreement.

The regional dimension of control should also receive priority attention, and support should be made available to the Sub-Regional Fisheries Commission to enable it to carry out its projects satisfactorily. Of particular importance is the implementation of a vessel compliance register.

Under the EU-Guinea agreement, catch figures from European Commission show that for species other than tuna (\pm 11,000 tons), catches are relatively modest: 350 tonnes of shrimp and 2,800 tonnes of other fish and cephalopods. These catches are landed at Las Palmas where the added-value process begins.

The landed value of the fish caught by European vessels in Guinean waters is estimated by the Commission to be EUR 26.4 million. The value added through processing and distribution of the fish that takes place in Europe is EUR 18.9 million. This represents an overall benefit of EUR 45.3 million, without taking account of jobs maintained in the processing industry. When compared with its cost (the maximum annual financial compensation is EUR 4.25 million for 2008), this agreement still holds very attractive prospects for European operators.

The progressive localisation of certain added-value operations in Guinea is an important issue. It is therefore most important to find out whether fisheries agreements can contribute to this. In Europe however they are seen as a way of maintaining the jobs that rely on ACP fish supplies, particularly in the processing sector.

To be truly fair, the valuation of the Guinea agreement Protocol should go beyond comparing *“the level of fishing opportunities granted against quantities of financial compensation given”*. Rather it should be seen as a mechanism through which Guinea could profit from its fishing resources. This could be achieved by:

- improving resource assessment and valuation by the third country;
- improving the local institutional capacity to manage fisheries and implement the terms of the agreement;
- establishing methods of EU financing that would allow for the development of local processing industries to supply both Guinean and West African local markets as well as export markets.

One issue that should also be addressed as part of the new Protocol for an EU-Guinea “partnership” is the access of Guinean fish products to the European market, especially as regards compliance with health regulations. The issue of sanitation is a significant barrier for the access of ACP fish products (especially from artisanal fishing) to the European market, one of the main export markets. Through the agreement Protocol, synergies could be achieved with existing European co-operation projects. An example is the project aiming to bring ACP fish products into compliance with EU health regulations, and gives particular attention to artisanal fisheries.

6.3. General issues for future EU-ACP Tuna partnerships

EU fishing fleets are active throughout the Atlantic and Indian Ocean Regions, where they fish both in international waters and those under national jurisdiction. The EU bilateral fishery agreements with ACP countries in these regions enable its fleets to operate throughout the year.

ACP countries like Cape Verde, Comoros, Madagascar, Mozambique, and the Seychelles have important tuna resources. The fisheries relations with the EU are based on cash for access tuna agreements. The distance of fishing grounds necessitates the use of ACP ports, like Victoria (Seychelles) or Abidjan (Ivory Coast) by the EU fleets for refuelling and other requirements (transshipping, provisions, maintenance, etc).

These agreements are important for the local export processing sector (tuna canning) that are highly dependent on the supply from EU vessels for exporting on EU market. Their own tuna fishing fleets are poorly developed, and in order to comply with the Rules of Origin requirements of the EU market (under the Cotonou Agreement) the only option is to obtain tuna caught by EU owned vessels.

Generally the EU tuna fleet do not compete with local ACP fishing fleets, with the notable exception tuna fishing operations (pole and line) that require live bait. The live bait catching activities may have a significant impact on coastal resources and compete directly with local artisanal fisheries.

The EU is also building up its presence in the Pacific Ocean. The main relevance of EU tuna agreements with Pacific countries is that they provide an opening for the EU to legitimately expand its tuna fishing activities in the Pacific. The EU has recently signed the “Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western Central Pacific Ocean (WCPTC)”, and these agreements will provide it with the necessary catch histories for future quota allocations.

There are 3 tuna fisheries agreements with countries in the *Pacific* Ocean (Kiribati, the Solomon Islands and the Federated States of Micronesia). For these countries, the financial compensation packages provided by the EU make a significant contribution to the overall Government revenues. But questions have been raised about the environmental impact of one of the main fishing methods used – purse seining. This tends to catch a high level of juveniles. In September 2004, delegates at a conference in the Marshall Islands were told by scientists that some tuna species, including bigeye and yellowfin, cannot sustain any increases in fishing effort. Both bigeye and yellowfin tuna are being targeted by the new incoming EU fleets.

Pacific island nations are also demanding that a greater share of the benefits from the tuna fishery accrue to Pacific islanders. This is an objective common to all ACP countries...

6.4. The EU-Seychelles new protocol

In October 2004, EU Commission and Seychelles initialled a new 6 years protocol, to start in January 2005.

The Seychelles economy is highly dependent on tourism and fisheries. The adoption of sustainable environmental policies is therefore afforded a high priority by the authorities. These priorities find an echo in the EU Commission press release: 'This protocol reflects the EU move from traditional fisheries agreements to FPAs based on cooperation and dialogue to achieve sustainable fisheries in the waters of the partner country concerned.'

It is instructive to look at the basis on which these claims are being made. EU financial compensation has increased from €3.4 million to €4.125 million a year, whilst licence fees paid by vessel owners have been increased by 50% to €15,000 for seiners, and to €2,250 and €3,000 for long-liners. Although this does not achieve a de-coupling of access to resources from the financial compensation, this is in line with the conclusions of the EU Council of Ministers on fisheries partnerships, which advocates that a fairer share of the costs should be born by vessel owners.

The press release also explains that 'almost 40% of this amount (of compensation) has been earmarked for promoting responsible fishing, particularly through control, monitoring and enforcement activities.' This is a positive development, particularly as under-reporting of catches (and by-catch), including by EU vessels, has always been an issue.

The number of tuna seiners remains the same at 40, whilst the number of long-liners is to be reduced from 27 to 12. This cut in access for surface long-liners reflects the determination by the Seychelles to reduce the fishing effort of tuna long-liners by 15% by 2006. On the EU side, it most probably also reflects the fact that the level of utilisation of licences for long-liners in the previous protocol was less than 20%.

But these measures only partially address the issues of resources and environment conservation. Tuna seining can be a particularly unselective fishing technique, especially when FADs (fish aggregating devices) are used (as in the case of EU fleet operations in the Indian Ocean). However, this harmful practice is not addressed in the new agreement.

Another pressing issue in EU- Seychelles fisheries relations concerns the access of Seychelles swordfish to EU market. According to the SFA (Seychelles Fishing Authority) 'The fact that the European Union (EU) sounded the alarm 18 months ago that Seychelles' swordfish has a high level of cadmium posed a major constraint to accessing the EU market'. At the same time, similar fish caught by EU tuna vessels operating under the EU-Seychelles agreement, which would contain similar levels of cadmium, face no such constraints in accessing their home (EU) markets.

Whilst a social clause has been included in the agreement, it is not clear what impact this will have in practice. Despite the inclusion of the clause, it is still possible for EU vessels to avoid embarking local crew (against the payment of a fee). The main problem, which is that EU vessels simply do not embark local crew, still has to be addressed. Some initiatives are urgently needed to ensure that, when qualified local crew are available, they should be able to find work on EU vessels.

7. Towards Fair and Sustainable Fisheries Partnership Agreements

7.1. The Scope of ACP and EU mutual interests in sustainable fisheries

Defining the scope of the mutual interests and how benefits are to be shared between the ACP and the EU are central to establishing sustainable Fisheries Partnership Agreements.

At international level, ACP and EU countries, as members of FAO, are jointly committed to resolve the fisheries crisis. Both ACP countries and EU are signatory to the *FAO Code of Conduct for Responsible Fisheries*, approved by the FAO Conference in 1995. The priority issues for implementing the Code are:

- Participation of the stakeholders, information sharing and transparency (*art 7, 9, 11*)
- Improved information for management: research on biological, economic and social components of fisheries, improved data collection, regional co-operation (*art 8, 9, 10*)
- The need to assess and minimise negative impacts of fishing (prevent destructive fishing practices, minimise by-catch, minimise negative impacts of aquaculture (*art 7, 9, 11*))
- Reduce excess fishing capacity (*art 7 and 10*)
- Improve Monitoring, Control and surveillance systems (*art 7, 8, 9*)
- Manage responsibly the transboundary stocks
- Address the particular situation of developing countries (*art 5*)

7.2. Priority areas and demands to be discussed in EU-ACP FPAs negotiations

Given these global challenges, the need for compliance with WTO rules, and past experience of ACP-EU bilateral fisheries agreements, it is possible to draw up a list of priority areas and demands that need to be discussed as part of the future EU-ACP FPA negotiations.

This was the subject of two meetings organised jointly by the ACP secretariat, the CTA and the Commonwealth Secretariat in 2003 and 2004. These meetings were attended by ACP and EU representatives. So far these meetings have provided the only organised broad consultation with ACP countries on FPAs, and a number of recommendations were made by participants on various aspects of the future partnerships.

The main recommendations made for the negotiation of future EU-ACP sustainable and fair fisheries partnership include:

- **the Cotonou Agreement should provide the basis for establishing FPAs**

The objectives of the Cotonou Agreement should form the basis for the establishment of fisheries partnership agreements. These should therefore be the result of a political dialogue. The approach proposed at EU level in the Council Resolution on Fisheries and Poverty Reduction (EU, 2001) could be used as a reference for future fisheries partnership agreements.

- About EU fleets Access conditions

In order to conserve ACP natural capital for both current and future generations, it is important that access of EU boats to ACP waters be made conditional on:

- ? the flexible adjustment of fishing possibilities on the basis of annual resource assessments, taking into account the best available scientific information (in particular the results of international or regional scientific committees meetings) and in accordance with the needs of the local fishing sectors;
- ? the promotion of good governance, with a clear distinction made between the financial compensation allocated for fishing access and the monies allocated for investing in sustainable fisheries development. Under no circumstances should the reduction of fishing access lead to a reduction in monies allocated for investment in sustainable fisheries development;
- ? the promotion of a regional approach to partnerships in ways that strengthen systems and capacities for collecting, processing and sharing data on catches, fish stocks, ecosystems, fishing effort, and the economic and social importance of the fishery sector. In particular, FPAs should support and build on existing regional research initiatives involving both national research centres and international bodies like the FAO;
- ? the promotion of transparency:
 - data collected should be publicised, in their aggregated form, to promote transparency, public debate and public control over the process.
 - Full transparency, information and well prepared participation of the local ACP fisheries sector to the negotiating process can only but reinforce the ACP States position in favour of a sustainable, “poverty reducing” development of ACP fisheries sectors.

- About Monitoring, Control and Surveillance

ACP countries emphasised the need for, and support efforts made at regional level for, monitoring the status of fish stocks and ecosystems. Initiatives to develop 'common regional fisheries policies', as in the ECOWAS and SADC regions, should be supported.

In particular, in order to be able to better assess the value of their natural capital, ACP coastal states push for the following conditions to be included in access provisions for EU fleets:

- ? the use of VMS (the vessel-monitoring system) should be systematically introduced with the data collected made directly available in a timely fashion to both the EU and the third state. Current arrangements, particularly those involving private companies, that make only partial data available *post facto*, are highly unsatisfactory;
- ? on-board observer programmes should be compulsory (without a default clause); observers should be paid through public funds and not by the boat owners; observers should be qualified to the same internationally recognised standard, ensuring harmonisation of standards in the observer programmes between all FPAs;

- ? by-catch management should make the avoidance of discards a priority, through the promotion of selective fishing methods; by-catch reporting should be compulsory;
- ? local landings: obligatory landings would facilitate and enhance the quality of the control.

7.3. Constraints to be addressed

The *raison d'être* of FPAs is to maintain the presence of the European long distant water fleets (LDWF) in the EEZs of third countries, to protect its interest and to maintain the employment and other social and economic benefits linked to its activity. Thus, the driving force behind the conclusion of fisheries partnerships will continue to be the commercial and related interests of the EU fishing sector.

Likewise, the financial contribution paid to ACP countries in the framework of fisheries partnerships will continue to be mainly determined by the fishing opportunities accessible to the EU fishing fleet.

For transparency and accountability reasons, it would be difficult to make it otherwise as FPAs are part of the Common Fisheries Policy. Moreover, exercising a control over the way the money of the financial compensation is disbursed by the ACP country is virtually impossible, given that all fisheries agreements/partnerships recognise the full sovereignty of the third country for the use of the financial compensation.

On the other hand, the EU can hardly promote responsible and sustainable fisheries through FPAs if the ACP partner has no capacity to manage its fisheries in a sustainable way. Similarly, it is not possible to incorporate an FPA into the development strategies of a coastal State – one of the elements stated in the EU Commission Communication on FPAs– if this State does not have a fisheries policy outlining a development strategy for the sector...

Given the conditions for the disbursement of the FPA financial contribution (through the Common Fisheries Policy) and the pressing requirements for ACP States to develop sustainable fisheries in their waters, it is clear that FPAs on their own will not lead to sustainable fisheries development. It is also clear that FPAs can not (and should not) replace development cooperation in fisheries matters. Furthermore, if Cooperation and Development policies, both at EU and EU Member State level, are not applied in the formulation of these sustainable development strategies, FPAS will just be business as usual: “pay (may be a bit more), fish (probably a bit less) and go”.

7.4. What role for the EU Development Cooperation in the fisheries sector²³

The EU is currently financing about 15 fisheries initiatives in ACP countries, mostly under the 8th and 9th EDF (programming periods 1997-2002 and 2002-2007 resp.), with a total financial envelope of roughly 140 million €

The most important initiatives concern programmes and projects financed under regional programmes or through so-called “all ACP Funds” (sector-wide programmes, not allocated at national or regional level). These are in particular:

- Strengthening Fishery Products Health Conditions in ACP/OCT Countries (2002-2007, 45 million €)
- Implementation of a Fisheries Management Plan for Lake Victoria (2003-2008, 30 million €)
- Indian Ocean: Tuna Tagging and Monitoring, Control and Surveillance (9th EDF)
- SADC Monitoring Control and Surveillance of Fishing Activities (RIP South Africa + NIPs 8th EDF, 2000-2006, 15 million €)
- Fisheries Projects in the Pacific Region (8th and 9th EDF, 15 million €):

Besides these rather large projects, there are several projects in support of artisanal fisheries at national ACP level (Senegal, Papua-New Guinea, etc) under the 7th and 8th EDF with a total financial contribution of about 20 million €

In addition, there are two major fisheries programmes/projects in preparation still to be implemented during the programming period of the 9th EDF.

The first one aims at “Strengthening Fisheries Management in ACP Countries” (or ACP Fish II). A second initiative might be funded under the Regional Indicative Programme West Africa in support of fisheries management in the area covered by the Sub-regional Fisheries Commission (CSRP).

The objective would be to reinforce institutional capacities, to contribute to the harmonization of the fisheries policies of the Member States of CSRP and to foster sub-regional cooperation in areas such as research and Monitoring, Control and Surveillance (to combat IUU fishing).

In implementing these programmes, EU fisheries development cooperation can play an important role in ensuring the basis for signing future EU-ACP fisheries partnerships is sustainable and fair, either through:

- **Bilateral cooperation with countries having concluded a FPA or wanting to sign one**
Development cooperation could help to prepare or to enhance the basis on which FPAs might build on (e.g. formulation of a sector policy, resources management (MCS, research etc.), infrastructure, participation of stakeholders to decision making processes, trade, etc. This might particularly be interesting for partner countries where either the financial contribution obtained via the FPA is relatively modest, or where the state of the fisheries

²³ *The EU Development Approach to Fisheries Cooperation, Presentation for the Expert Meeting on ACP-EU Fisheries Relations, Probst N., Brussels, 13-14 December 2004*

requires important more financial support to enhance resources management than what would be available through the FPA financial compensation..

- Regional cooperation

Interventions at regional level are already a priority for the EC Fisheries Development Cooperation, given the frequently observed regional nature of fisheries problems. In addition, the Commission has for the time being no mandate to negotiate fisheries agreements on a regional level, even though regional issues can strongly influence the implementation of fisheries agreements (e.g. MCS and research in W. Africa, MCS in the Indian Ocean).

Given their broad experience and capacity in these key areas (support to small scale fisheries, research, Monitoring , Control and Surveillance, etc), interested EU Member States should provide support to the efforts of DG Dev to establish up a coherent European approach for sustainable and fair EU-ACP fisheries partnerships.

8. What can be achieved now?

Given the issues at stake in setting up sustainable and fair fisheries partnership agreements as detailed in this report, there exist a series of opportunities to improve coherence between fisheries partnership agreements and Development and Cooperation objectives.

Referring to the priorities highlighted in the meetings organized in 2003 and 2004 by the ACP Secretariat, the CTA and the Commonwealth Secretariat on fisheries partnerships agreements, three concrete proposals can be made:

C. Establishing the Cotonou Agreement as the basis for sustainable and fair Fisheries Partnership Agreements

As has been widely concluded, FPAs will not, on their own, be an instrument capable of establishing sustainable and fair fisheries relations with ACP countries. Applying the Cotonou Agreement to these relations is necessary. Although EU Cooperation and Development has an active fisheries programme, the human capacity existing inside DG Dev to provide follow-up on these programs is limited.

However, many EU Member States are interested in establishing EU-ACP sustainable and fair fisheries partnerships. Some of these have national fleets fishing within the frameworks of such agreements, others have extensive expertise in ACP fisheries cooperation and development. These latter parties have a clear understanding of the concrete lack of coherence between fisheries agreements and development that needs to be addressed.

Action should be taken to engage the various relevant stakeholders in round table discussions. These would include: DG Dev, Member States Cooperation and Development staff involved in fisheries projects, DG Fish, NGOs, and others.

Mechanisms should be explored to provide coherent support that combines fisheries partnership financial contributions on the one hand, and EU and EU Member States Cooperation and Development programmes on the other.

The involvement of interested EU Member States (rather than only those who have fishing interests) in the future implementation of FPAs would provide some guarantee that the rationale for this coherent support is development cooperation policy rather than the fishing sector interests (that would use development money to get access to some fishing possibilities).

D. Encourage the use of the Impact Assessments Studies (IAS) during the negotiations

These IAS are important tools for the negotiation of sustainable FPAs, in as much as they analyse information on the current fisheries situation in the coastal state, including fisheries policy, spending on fisheries, international aspects of the fisheries policy, environmental aspects, the stakeholders' views, etc. They also provide an analysis of the FPA, including economic and financial analysis (such as stakeholder identification, cost-benefit and cost-effectiveness analysis, the economic effects of FPAs), social-impact analysis, and environmental-impact analysis.

Given the complexity of the issues at stake in the context of EU-ACP fisheries agreements, the areas covered by these IAS could usefully be expanded and cover, for example, resource valuation and assessment, institutional analysis - presence or absence of management regimes, effectiveness shortcomings, etc, so to provide a more accurate picture of the long term EU-ACP mutual interests for the sustainable development of ACP fisheries.

In order to widen the scope of the ex-ante and ex-post IAS for FPAs, DG Dev and interested Member States with an expertise in the field should be consulted and provide an input.

In a spirit of partnership, the results should be shared by both parties to the FPA negotiations, as well as by the fishing sectors in both the EU and the third country.

E. Enhanced participation in Joint Scientific committees

It is important to ensure that a wider range of experienced scientists from all interested Member States (and not only Member States with fishing interests) participate in the Joint Scientific Committees that will be set up through FPAs. This would help to reinforce the capacity of these joint scientific committees to assess the scope for a truly mutually beneficial fisheries partnership (by looking at the state of the resources, and also at a wider range of social, economic and environmental factors).

9. Coherence with other aspects of the Common Fisheries Policy

Two on-going debates relating to the reform of the CFP have aspects of relevance for EU-ACP fisheries relations, in particular:

9.1. Coherence with EU's proposal for a Control Agency

The proposed tasks of the control agency will be to coordinate EU member states monitoring and control activities, not only in EU waters but also:

- within the framework of EU bilateral fisheries agreements
- within regional fisheries organisations.

Of particular relevance for ACP countries is the fact that *«The Agency may, at the request of the Commission, co-operate with the competent authorities of third countries in matters relating to control and inspection in the framework of agreements concluded between the Community and such countries»* (Article 5, page 21)

This would be achieved by organising the joint deployment of the means of control and inspection in the member states on the basis of an agreed EU strategy.

Control of EU fishing activities in ACP waters is a critical issue for ACP countries. It is important both for resource management and to monitor levels of fish catches made by EU vessels in their waters. The latter having important implications for establishing the levels of financial compensation due from fisheries agreements.

The setting up of VMS systems through bilateral fisheries agreements was a first positive step, but a major stumbling block has always been the lack of access given to the ACP authorities on real time positions of EU fishing vessels or lack of support to develop the technical capacity to have access to this information.

The Control Agency could provide a stepping stone to remove this stumbling block. It is particularly noteworthy that: *«The Agency may, at the request of the Commission, co-operate with the competent authorities of third countries in matters relating to control and inspection in the framework of agreements concluded between the Community and such countries»*. This means that ACP States should be given access to the on-line, real time data from the Community Fishing Vessel Monitoring Centre (via the Commission and the Control Agency) when negotiating future fisheries (partnership) agreements.

9.2. Coherence with the 7th Framework Research programme

Improvements in scientific knowledge about ACP fisheries, particularly in countries having signed/in the process of signing a fisheries partnership agreement with the EU should be included as a thematic domain for FP7 and be supported through the second fisheries financial instrument.

An initiative to improve the scientific knowledge of fisheries resources in West Africa was implemented under the previous EU framework research programme. Support not only needs

to be increased for this initiative, but that similar initiatives should be financed in other developing countries and regions where the EU has or will have fisheries partnership agreements. In cases where local scientific capacity is poor or absent, the programme should also support appropriate scientific training and institutional capacity building.

Some particular aspects that need to be addressed in that context include:

- Improved scientific knowledge of the third country small scale fishing activities. This requires documenting and producing quantitative and qualitative data about the various biological, and ecological aspects as well as social, technical and economic aspects. This should also include documenting local (traditional/community based and other) management systems, including taboos, belief systems, closed seasons/areas, access rights etc
- Improvement of the understanding of the selectivity of fishing techniques used by EU fleets in tropical waters (documentation of the by-catch by fisheries areas, impact of gears on various habitats, etc)

As a general rule, particularly in resource scarce ACP countries, EU support for fisheries science should be designed first and foremost as a tool for the «managers of the resources», including the administration and the professionals. It's therefore important that such research is made in co-operation with the national/regional ACP research centres and builds on existing work.

Concerted efforts and support should be given to improving the quality of the primary data supplied by the operators for research purpose. The importance of sharing these data with third countries in whose waters EU fleets are fishing, as the basis for efficient collaboration between the third countries and EU scientists should also be given due importance.

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